

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**APPLICATION FOR REISSUE**

**DECLARATION BY THE INVENTOR**

Applicant: Allan S. Gengler, et al.

Patent No.: 6,158,523

Issued: December 12, 2000

For: AGRICULTURAL DISC MOUNTING SYSTEM AND METHOD

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As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is described and claimed in patent number 6,158,523, granted December 12, 2000, and for which a reissue patent is sought on the invention entitled AGRICULTURAL DISC MOUNTING SYSTEM AND METHOD, the specification of which is attached hereto.

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I believe the original patent to be wholly or partly inoperative or invalid by reason of the patentee claiming more or less than he had a right to claim in the patent.

Errors upon which reissue is based include:

1. Applicants claimed more than they had a right to claim. After U.S. Patent No. 6,158,523 issued, Applicants became aware of new prior art which they believe anticipates Claims 1 and 21 as issued. The new prior art is the BN240321 middlebreaker assembly (hereinafter "the '321 assembly") produced by Deere & Company and shown in an internal Deere & Company document included with the Information Disclosure Statement attached hereto. Based upon information provided by Deere & Company, Applicants believe that the '321 assembly was in public use more than one year prior to the filing date of the application upon which the '523 patent issued. Claims 1 and 21 are amended herein to overcome the '321 assembly by specifying that the leaf springs used with the disc mounting system are "generally U-shaped". It should be noted that the '321 assembly uses a leaf spring substantially similar to that shown in Fig. 12 of the application, and that the spring of Fig. 12 is clearly distinguished from the "U-shaped" springs shown in Figs. 9 and 10 (see column 7, lines 8-21). Therefore, the spring of the '321 should not be considered as being "U-shaped" as that term is defined by the patent specification.
  
2. Applicants claimed less than they had a right to claim in that Claims 11 and 16, as issued, could be interpreted as requiring all of the discs on the implement, both front and rear, to be independently mounted. The patent specification clearly shows an implement having independently mounted front discs and conventionally mounted rear discs (see Fig. 1), and Applicants believe they are entitled to claim such an implement. Claim 11 as originally filed called out a mounting system "for attaching individual ones of said front disc blades". Claim 16 originally depended from Claim 11 and was rewritten in independent form. During prosecution,

Applicants' attorneys attempted to broaden Claims 11 and 16 to cover an implement having either the front or rear disc blades independently mounted, and did so by deleting the word "front" from the claims. Applicants now realize that their attorneys may have inadvertently narrowed the claims instead of broadening them as intended. It should be noted that the word "front" was not deleted in response to any prior art rejection made by the Examiner, and therefore, the narrow scope of the issued claims was not required by either the Examiner or the cited prior art. The amendments to the claims was not in any sense an admission that the prior art prohibited the patenting of an implement having only the front discs independently mounted using the novel disc mounting system, and therefore, correction of the error would not constitute an impermissible recapture of surrendered subject matter. See Seattle Box Co. v. Indus Crating & Packing, 731 F. 2d 818 (Fed Cir. 1984).

All errors corrected in this reissue application arose without any deceptive intention on my part.

**Power of Attorney**

I hereby appoint Malcolm A. Litman, Reg. No. 19,579; Gerald M. Kraai, Reg. No. 34,854; Kent R. Erickson, Reg. No. 36,793; Mark L. Kleypas, Reg. No. 43,720; and Marcia J. Rodgers, Reg. No. 33,765 all members of the bar of the State of Missouri, whose postal address is Shughart, Thomson & Kilroy, P.C., Twelve Wyandotte Plaza, 120 West 12th Street, Kansas City, Missouri 64105, telephone (816) 421-3355 as my attorneys, with full power of substitution, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith in my behalf.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application, any patent issued thereon, or any patent to which this declaration is directed.

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